

U.S. Department
of Transportation

United States
Coast Guard



Commandant
United States Coast Guard

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COMDTINST 5860.1
JUN 28 1999

COMMANDANT INSTRUCTION 5860.1

Subj: DELEGATION OF AUTHORITY FOR LIVING MARINE RESOURCES
ADMINISTRATION AND LAW ENFORCEMENT

Ref: (a) 49 Code of Federal Regulations (C.F.R.) 1.46
(b) Secretary of Transportation memo dtd 20 Jan 99

1. PURPOSE. The purpose of this Instruction is to delegate functions and authorities regarding enforcement and administration of living marine resources laws to Area and District Commanders.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel, and special staff offices at Headquarters shall refer to this document as a record of delegation of authority for living marine resource laws.
3. DIRECTIVES AFFECTED. None.
4. DISCUSSION. Per reference (a), the Secretary of Transportation has delegated functions and authorities regarding enforcement and administration of living marine resources laws to the Commandant. Area and District Commanders may require these authorities to conclude agreements and to coordinate law enforcement activities effectively within their geographic areas of responsibility. The following functions and authorities are therefore further redelegated to all Area and District Commanders:
 - a. *Authorities delegated to the Commandant per subparagraph (ooo) of reference (a) (Published in 63 Federal Register 59474 of 4 Nov 98):*

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- (1) 16 U.S.C. (U.S.C.) 5106(h), which relates to authorizing persons to enforce a moratorium declared under 16 U.S.C. 5106(c), pursuant to the Atlantic Coastal Fisheries Cooperative Management Act of 1993, as amended, Pub. L. 103-206, 107 Stat. 2447.
 - (2) 16 U.S.C. 3375(a), which relates to enforcement of the Lacey Act Amendments of 1981, as amended, Pub. L. 97-79, 95 Stat. 1073.
 - (3) 16 U.S.C. 1540(e), which relates to enforcement of the Endangered Species Act of 1973, as amended, Pub. L. 93-205, 81 Stat. 844.
 - (4) 16 U.S.C. 971d, which relates to enforcement of the Atlantic Tunas Convention Act of 1975, as amended, Pub. L. 94-70, 89 Stat. 385.
 - (5) 16 U.S.C. 972e and 972g, which relate to consultation on regulations and enforcement under the Eastern Pacific Tuna Licensing Act of 1984, as amended, Pub. L. 98-445, 98 Stat. 1715.
 - (6) 16 U.S.C. 5008(a), which relates to enforcement of the North Pacific Anadromous Stocks Convention Act of 1992, as amended, Pub. L. 102-587, 106 Stat. 5098.
 - (7) 16 U.S.C. 3636 and 3637, which relate to consultation on regulations and enforcement under the Pacific Salmon Treaty Act of 1985, as amended, Pub. L. No. 99-5, 99 Stat. 7.
 - (8) 16 U.S.C. 1172(a), which relates to enforcement of the Fur Seal Act of 1966, as amended, Pub. L. 89-702, 80 Stat. 1091.
 - (9) 16 U.S.C. 2409 (a) through (e), which relate to enforcement of the Antarctic Conservation Act of 1978, as amended, Pub. L. 95-541, 92 Stat. 2048.
 - (10) 16 U.S.C. 2436 and 2439, which relate to conservation measures, consultation on regulations, and enforcement under the Antarctic Living Marine Resources Convention Act of 1984, as amended, Pub. L. 98-623, 98 Stat. 3398.
 - (11) 16 U.S.C. 773i, which relates to enforcement of the North Pacific Halibut Act of 1982, as amended, Pub. L. 97-176, 96 Stat. 78.
 - (12) 16 U.S.C. 5506, which relates to enforcement of the High Seas Fishing Compliance Act of 1995, as amended, Pub. L. 104-43, 109 Stat. 367.
 - (13) 16 U.S.C. 5606(e), which relates to enforcement of the Northwest Atlantic Fisheries Compliance Act of 1995, as amended, Pub. L. 104-43, 109 Stat. 377.
- b. *Authority delegated to the Commandant under 49 C.F.R. 1.46(v):* The following functions vested in the Secretary by the Magnuson-Stevens Fishery Conservation and Management Act (Pub. L. 94-265 as amended, 16 U.S.C. 1801 *et. seq*):

- (1) 16 U.S.C 1821, which relates to consultation on imposition of restrictions regarding recreational fishing by foreign vessels.
 - (2) 16 U.S.C 1824, which relates to consultation on the issuance of foreign fishing permits.
 - (3) 16 U.S.C 1854, which relates to consultations on the development of fishery management plans.
 - (4) 16 U.S.C 1861, which relates to enforcement, except that the authority to approve seizure of foreign fishing vessels shall be retained by the Commandant.
- c. *Authority delegated to the Commandant under 49 C.F.R. 1.46 (kk):* The following functions vested in the Secretary by the Fisheries Amendments of 1982 (Pub. L. 97-389; 96 Stat. 1949), 16 U.S.C. 3601 et. seq., which relate to implementation of the Convention for the Conservation of Salmon in the North Atlantic Ocean:
 - (1) 16 U.S.C. 3604, which relates to consultation on regulations.
 - (2) 16 U.S.C. 3607, which relates to enforcement.
5. LIMITATIONS. Area and District Commanders shall exercise the above authorities only with respect to matters entirely within their geographic areas of responsibility. In exercising these delegated authorities and functions, Area and District Commanders shall be governed by applicable laws, regulations, policies, and direction of higher authority.
6. AUTHORITIES WITHHELD. The following functions and authorities have not been redelegated but are retained by the Commandant:
 - a. 16 U.S.C. 1540(f), which relates to promulgation of regulations under the Endangered Species Act.
 - b. 16 USC 971(c), which relates to concurrence and consultation with the Secretary of State under the Atlantic Tunas Convention Act of 1975.
 - c. 16 U.S.C. 1156, which relates to law enforcement certificates, delivery of seized vessels and arrested persons to foreign officials, and providing law enforcement officials as witnesses under the Fur Seal Act of 1966.
 - d. 16 U.S.C. 2409 (f), which relates to prescribing regulations under the Antarctic Conservation Act of 1978.
 - e. 16 U.S.C. 2434(b), which relates to concurrence with the Secretary of State in the establishment of a system of observation and inspection under the Antarctic Living Marine Resources Act of 1984.

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- f. 16 U.S.C. 1826, which relates to the negotiation of international agreements and consultation with the Department of Commerce regarding large-scale driftnet provisions of the Magnuson-Stevens Fishery Conservation and Management Act of 1996.
 - g. The authority to approve seizure of a foreign vessel under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1861 (This authority is nondelegable under 49 C.F.R. 1.46 (v)).
7. PRIOR DOCUMENTS. In reference (b) the Secretary expressly ratified all prior documents signed by the Coast Guard on behalf of the Coast Guard or the Department of Transportation under the statutory authorities listed above.

/s/ JAMES M. LOY
Admiral, U.S. Coast Guard
Commandant